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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,581	10/20/2003	Rocco R. Promutico	PRO 10300	2125
25306	7590	04/21/2005	EXAMINER	
LAW OFFICES OF RAYMOND A. NUZZO, LLC			LAYNO, BENJAMIN	
579 THOMPSON AVENUE			ART UNIT	
EAST HAVEN, CT 06512			PAPER NUMBER	
			3711	
DATE MAILED: 04/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/689,581	<b>Applicant(s)</b> PROMUTICO, ROCCO R.	
	<b>Examiner</b> Benjamin H. Layno	<b>Art Unit</b> 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 7-36 is/are pending in the application.  
4a) Of the above claim(s) 28-36 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-27 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Reissue Applications***

1. The original patent, or a statement as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

### ***Election/Restrictions***

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 7-27, drawn to a method of playing a wagering game comprising providing a first group of dice and a second group of dice, classified in class 273, subclass 274.
  - II. Claims 28-36, drawn to a method of playing a wagering game, comprising providing a lottery scratch ticket, classified in class 273, subclass 139.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation. In invention I, players must first place wagers then roll dice in order to have a chance at receiving winnings. In invention II, players only have to scratch off or uncover material on a lottery scratch ticket to reveal dice rolls, and determine if players are to receive winnings. No wagers are placed in invention II.

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4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 28-36 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claims elected pursuant to a restriction requirement will receive a complete examination on the merits (see below), while the non-elected claims will be held in abeyance in a withdrawn status, and will only be examined if filed in a divisional reissue application.

If the original claims are found allowable, and a divisional application has been filed for the non-elected claims, further action in the application will be suspended, pending resolution of the divisional application.

#### ***Allowable Subject Matter***

5. Claims 7-27 allowed.

6. The following is an examiner's statement of reasons for allowance:

7. The patent to DiLullo et al. discloses a method of playing a dice wagering game comprising a betting playing surface and a pair of dice. Bets are placed. The dice are rolled and a first sum is determined. The first sum determines whether the rolling player loses his bet or continues playing. If the player continues, the dice are rolled again and

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a second sum is determined. The first sum and second sum are added together to produce a total sum, and the player's bets are resolved. The patent to Boylan et al. discloses a method of playing a dice wagering game comprising two pairs of dice. Players place bets. The first pair of dice is rolled and a first sum is determined. The player's bets on the first sum are resolved. The second pair of dice is rolled and a second sum is determined. The first and second sums are added together to produce a total sum, and player's bets on the total sum are resolved.

8. None of the cited references alone or in combination teach the steps of "providing a first group of dice and a second group of dice", "rolling the first group of dice", "paying winnings based on wagers on the number.....equal to the first sum", "paying winning based on wagers on the one of the plurality of possible combinations", "rolling a second group of dice", "**paying winnings based on wagers.....equal to the second sum**", "paying winnings based on wagers on the one of the plurality of possible combinations", "summing the first and second sums to produce a total sum; paying winnings based on wagers on a number in the predetermined group of numbers that is equal to the total sum", "combining the roll outcomes of all of the dice.....to arrive at a third resulting combination of roll outcomes".

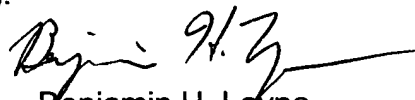
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571)272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Benjamin H. Layno  
Primary Examiner  
Art Unit 3711

bhl